



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

210 FIRST APPEAL NO. 355 OF 2008

Shesherao s/o Govindrao Mane,
Age 65 years, Occupation Agri.,
R/o Hadoli Tq. Nilanga, Dist.
Latur.

Died Through L.Rs.

(Original claimant)

1. Bhagrabai wd/o Shesherao Mane,
Age 70 years, Occupation Agri.,
2. Sitaram s/o Shesherao Mane,
Age 35 years, Occupation Agri.,
3. Shobhabai w/o Rajaram Mane,
Age 40 years, Occupation Household,
4. Sumanbai w/o Raghu Mule,
Age 55 years, Occupation Household,
5. Daivatabai w/o Indrajeet Mule,
Age 50 years, Occupation Household,
6. Sangita w/o Dinkar Bhore,
Age 45 years, Occupation Household,
7. Sangita Khandu Barmade,
Age 25 years, Occupation Household,
R/o Hadoli Tq. Nilanga,
Dist. Latur.

..Appellants

VERSUS

1. The State of Maharashtra,
Through the Collector, Latur.
2. Executive Engineer,
Lower Terna Project,
Right Bank Canal, Division No.1
Nilanga, Dist. Latur.

**..Respondents
(Original Respondents)**

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Advocate for Appellant : Mr. S S Manale

AGP for Respondents: Mr. V. M. Chate
Advocate for Respondent No.2 : Mr. Anand P. Chawre and Vandana
Sadawarte

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CORAM : ARUN R. PEDNEKER, J.

Dated : March 13, 2024

ORAL JUDGMENT :-

1. By the present appeal the appellants are challenging the award passed by the Reference Court dated 23/12/2005 in Land Acquisition Reference No.111/2001.

2. Brief facts giving rise to the present proceeding can be summarized as under :-

The appellants' lands were acquired for the purpose of Right Canal of Lower Ternal Project of village Hadoli. The lands were acquired under Section 4 of the Land Acquisition Act vide Notification dated 10/07/1995 and the appellants 16 R land out of Survey No.61 is acquired for the said purpose. The award was passed by the Land Acquisition Officer on 17/08/1998. The Land Acquisition Officer determined the price of the land @ of Rs.60,500/- per Hectare. The said award was challenged by filing Reference. The common evidence was led in LAR No.111 of 2001 and 112 of 2001. PW 1 the owner of the land in LAR No.112 of 2001 has deposed that the lands are fertile lands

and he took crops like Sugarcane, toor etc., and was fetching yearly income of Rs.25,000/-. It is also stated that there is a Well in the land. In the cross examination he has admitted that there are other sale instances in the village. He has also stated that the acquired lands are situated half kilometer away from the central place of village and the land acquired were ancestral land and that he is a member of Killari Sugar Factory. The claimants relied upon the evidence at Exhibit 30 which is a sale instance of 18 Gunthas land dated 12/07/1991. The land admeasuring 18 Gunthas is sold @ of Rs.30,000/- i.e. Rs.1666/- per R. The vendor of the Exhibit 30 was examined as PW.2. P.W.2 in his examination has stated that the lands of the claimants are rich lands and that there is a well and trees in the field of Shesherao Mane. He stated that on 12/07/1991 he sold 18 Gunthas of agricultural land for consideration of Rs.30,000/- to one Venkat Ingale. He has also stated that the land of Venkat Ingale is situated adjacent to his land. He has also stated that he is not aware whether the distance between village Hadoli and Sarwadi is 7 kilometer.

3. The Acquiring Body has not led evidence in the matter.
4. Considering both the evidence of PWs.1 and 2, the Reference Court rejected the reference filed by the claimant in LAR 111/2001, and

as regards LAR No.112/2001, is granted parity with the price awarded by the Land Acquisition Officer in LAR 111/2001. The Reference Court held that the sale instance at Exhibit 30 shows that the sale transaction in respect of the land situated at village Sarwadi and acquired lands are from village Hadoli. Though witness Dhanraj in his evidence on oath stated that the land of the claimants is situated at 20 feet of his land, there is no whisper in the version of PW.1 for the acquired lands are situated near the land at Exhibit 30. As the acquired lands and the lands in sale instance Exhibit 30 are from different villages, therefore burden lies on the claimants to establish that both the lands are situated nearby. In such circumstances, sale instance at Exhibit 30 which is in respect of other village land, the same cannot be relied for determining the market value of the acquired lands. For the reason the Reference Court rejected the reference filed by the present claimants.

5. The claimants in LAR No.111/2001 have challenged the award of Reference Court in the present First Appeal. Challenging the Reference Court's award in the present first appeal the appellant states that, PW.2 has clearly stated that the lands at Exhibit 30 are within 20 feet distance from the acquired lands. The villages are adjacent and there is no dispute about the same. The lands could be within the vicinity or the boundary of the both the villages could be separated by a path and

could be adjacent to the village boundary. Although there is no specific evidence brought to that effect for distance of the lands, the evidence of PW.2 clearly states that the acquired lands and the land at Exhibit 30 are at a distance of 20 feet. In the cross examination PW.2 states that he is not aware whether the distance of village Hadoli and Sarwadi is 10 kilometer. The distance is measured from center to center but of PW.2 has stated that he is not aware of the distance between the two village.

6. PW.1 in his evidence has stated that the acquired lands are situated at half a kilometer from village Hadoli. The same cannot be thus very close to the land in Exhibit 30. There would be some distance between the two lands. However, as the villages are adjacent to one and another, and the lands were acquired from the village Hadoli which has population of three thousand and has school facility. Thus, Exhibit 30 can become a basis for computation of the price of the acquired lands of village Hadoli. As there is no evidence as regards the comparative assessment of both the villages and nothing is brought on record that the purchased land of the village Sarwadi is better developed village than village Hadoli.

7. Considering both the villages to be similarly placed and giving some minor reduction to the price of the acquired land, Exhibit 30 can

be taken as basis and the price of acquired land can be considered @ of Rs.1500/- per R. Further 5% per annum of enhancement in price of land from 12/07/1991 to 10/07/1995 would be come to around Rs.300/-. The acquired lands are thus granted compensation @ of Rs.1800/- per R along with interest and statutory benefits. Amounts already paid to the claimants to be adjusted.

8. With directions as above, the appeal is disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.